

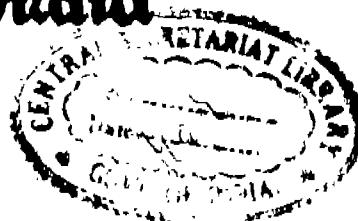


भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 2
PART II—Section 2

प्राधिकार से प्रकाशित
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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills was introduced in the Rajya Sabha on the 25th August, 1995.

I

BILL No. LVII OF 1995

A Bill further to amend the National Co-operative Development Corporation Act, 1962.

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the National Co-operative Development Corporation (Amendment) Act, 1995.

Short title and
commence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

26 of 1962.

2. In the National Co-operative Development Corporation Act, 1962 (hereinafter referred to as the principal Act), in the long title, for the words "and certain other commodities", the words "and certain other commodities and services" shall be substituted.

Amendment of
long title.

Amendment
of section 2.

3. In section 2 of the principal Act,—

(i) for clause (a), the following clause shall be substituted, namely:—

‘(a) “agricultural produce” includes the following:—

- (i) edible and non-edible oil seeds;
- (ii) cattle feed, including oilcakes and other ingredients;
- (iii) produce of horticulture and animal husbandry;
- (iv) forestry;
- (v) poultry farming;
- (vi) pisciculture; and
- (vii) other allied activities, whether or not underaken jointly with agriculture;

(ii) after clause (ab), the following clause shall be inserted namely:—

‘(aba) “Central financing institution” means Industrial Development Bank of India established under sub-section (1) of section 3 of the Industrial Development Bank of India Act, 1964 and includes an institution specified in section 6A of that Act;’; 18 of 1964.

(iii) for clauses (b) and (c), the following clauses shall be substituted, namely:—

‘(b) “Central Warehousing Corporation” means the Central Warehousing Corporation established under sub-section (1) of section 3 of the Warehousing Corporations Act, 1962; 58 of 1962.

‘(c) “co-operative society” means a society registered or deemed to be registered under the Co-operative Societies Act, 1912 or under the Multi-State Co-operative Societies Act, 1984 or under any other law with respect to co-operative societies for the time being in force in any State, which is engaged in any of the activities specified in sub-section (1) of section 9 and includes a Co-operative Land Development Bank;’; 2 of 1912.
51 of 1984.

(iv) after clause (db), the following clauses shall be inserted, namely:—

‘(dba) “industrial goods” means the products of industrial co-operatives or cottage and village industries or products of allied industries in the rural area and includes any handicrafts or rural crafts;

‘(dbb) “livestock” includes all animals to be raised for milk, meat, fleece, skin, wool and other by-products;’;

(v) for clause (dd), the following clause shall be substituted, namely:—

‘(dd) “nationalised bank” means a corresponding new bank as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;’; 5 of 1970.
40 of 1980.

(vi) after clause (e), the following clause shall be inserted, namely:—

‘(ea) “notified services” means any service which the Central Government may, by notification in the Official Gazette, declare to be notified services for the purposes of this Act;’;

(vii) for clause (h), the following clauses shall be substituted, namely:—

‘(h) “State Bank” means the State Bank of India constituted under the State Bank of India Act, 1955 or any of the subsidiary banks of the State Bank of India; 23 of 1955.

2 of 1934.

(ha) "State Co-operative Bank" has the same meaning as in the Reserve Bank of India Act, 1934;'

4. In section 3 of the principal Act, in sub-section (4),—

Amendment of
section 3.

(i) for clauses (iii) and (iv), the following clause shall be substituted, namely:—

"(iii) Chairman of the National Bank of Agriculture and Rural Development constituted under the National Bank for Agriculture and Rural Development Act, 1981, *ex officio*;"

61 of 1981.

(ii) for clause (vii), the following clause shall be substituted, namely:—

"(vii) one member to be nominated by the Central Government from amongst the chairmen of one of the Central financing institutions, *ex officio*;"

(iii) in clause (xvii), for the words "three members", the words "four members" shall be substituted.

5. In section 9 of the principal Act,—

Amendment
of section 9.

(i) in sub-section (1),—

(1) in the opening portion, for the words "plan and promote", the words "plan, promote and finance" shall be substituted;

(2) after clause (b), the following clause shall be inserted, namely:—

"(c) development of notified services;"

(ii) in sub-section (2),—

(1) in clause (b), for the words "and notified commodities", the words "live-stock, poultry feed, industrial goods, notified commodities and notified services" shall be substituted;

(2) in clause (e), the following proviso shall be inserted, namely:—

"Provided that no such guarantee shall be required in cases in which security to the satisfaction of the Corporation is furnished by the borrowing co-operative society;"

6. After section 12A of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
12B.
Grants,
donations, etc.

"12B. (1) The Corporation may receive gifts, grants, donations or benefactions from Government or any other agency in or outside India.

(2) The Corporation shall not receive any gifts, grants, donations or benefactions from a foreign government or any other agency outside India except with the previous approval of the Central Government."

7. In section 13 of the principal Act,—

Amendment
of section 13.

(i) in sub-section (1), after clause (b), the following clauses shall be inserted, namely:—

"(bb) all moneys received under section 12B;

(bbb) all moneys received for services rendered;"

(ii) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) All moneys in the Fund shall be deposited in the Reserve Bank or the State Bank or a nationalised bank or a scheduled bank or a State Co-operative Bank."

STATEMENT OF OBJECTS AND REASONS

The National Cooperative Development Corporation was set up under the National Cooperative Development Corporation Act, 1962. In the administration of the said Act, with the passage of time it was felt that there was need to further broadbase the activities of the Corporation.

2. With a view to enlarge the scope of the Act, a Committee was constituted which recommended that the activities of the Corporation be broadbased. It is accordingly proposed to amend the said Act, *inter alia*, to provide for—

- (i) covering livestock and notified services amongst its activities;
- (ii) authorising the Corporation to accept grants, donations, etc., from any agency in and outside India; and
- (iii) empowering the Corporation to waive, in suitable cases, conditions with regard to guarantee.

3. The Bill seeks to achieve the aforesaid objectives.

BAL RAM JAKHAR.

II

BILL No. LIX OF 1995

A Bill to provide for the establishment and incorporation of self-financing universities and for regulation of their functioning and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Private Universities (Establishment and Regulation) Act, 1995.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "Commission" means the University Grants Commission established under section 4 of the University Grants Commission Act, 1956;

3 of 1956.

(b) "Ordinances" means the Ordinances of a University;

(c) "prescribed" means prescribed by rules, Statutes or Ordinances, as the case may be, made, by notification in the Official Gazette, under this Act;

(d) "sponsoring body", in relation to a University, means—

21 of 1860.

(i) a society registered under the Societies Registration Act, 1860 or any other corresponding law for the time being in force in a State,

(ii) a public trust, or

(iii) a company registered under section 25 of the Companies Act, 1956: 1 of 1956.

Provided that no member of such society, author or trustee of such trust or member of such company shall be a person other than a citizen of India;

(e) "Statutes" means the Statutes of a University;

(f) "University" or "the University" means a university established under sub-section (l) of section 10.

Proposal for
establishment
of University.

3. (1) An application containing a proposal for establishment of a University shall be made to the Central Government by a sponsoring body in such manner and shall be accompanied by such fees as may be prescribed by rules.

(2) On receipt of an application under sub-section (1), the Central Government shall make such inquiries as it may deem necessary and shall consult the Commission seeking its views on the proposal.

(3) The Commission, before furnishing its views to the Central Government, shall notify in the Official Gazette and at least in one daily newspaper having circulation in the State in which the University is proposed to be established the fact of receipt of the application seeking the views of the general public on the proposal.

Project report.

4. (1) On receipt of the views of the Commission, the Central Government may ask the sponsoring body to furnish a project report.

(2) The project report shall contain the following details, namely:—

(a) the objectives of the University alongwith the details of the sponsoring body;

(b) location of the University, extent and availability of land;

(c) the nature and types of programmes to be offered and their relevance to development goals and employment needs and phasing of such programmes over the next ten years with enrolment targets;

(d) the arrangements for academic auditing;

(e) nature of faculties and, in a case where the focus is on a particular discipline, nature of emphasis on instructional inputs in humanities and social sciences should be evidenced in the project report;

(f) ten years perspective of campus development in terms of buildings, equipments and infra-structural facilities;

(g) phasing of capital expenditure over a period of ten years and its source of finance;

(h) phasing of recurring expenditure item-wise, its source of finance and unit cost per student of such expenditure;

(i) resource mobilisation plan including the proposed fee structure;

(j) fee structure proposed with reference to the unit cost and the costs of freeships and scholarships subject to the condition that the number of scholarships and freeships to be not less than thirty per cent. of the number of seats and different rates of fee may be specified for non-resident Indians and fee paying foreign students;

(k) track record of the sponsoring body;

(l) the method of selecting candidates for admission and the total number of freeships and scholarships and the admission policy to the disadvantaged classes; and

(m) such other details as may be prescribed by rules.

Submission of
project report.

5. The project report under section 4 shall be submitted by the sponsoring body through the Government of the State in which the University is proposed to be established and the State Government shall furnish the same to the Central Government alongwith its comments, if any, within a period of six months from the date of its receipt from the sponsoring body.

6. (1) On receipt of the project report alongwith comments, if any, of the State Government, the Central Government shall refer the same to the Commission seeking its recommendations.

Examination
of project
report.

(2) On receipt of the project report under sub-section (1) the Commission shall obtain the views of such other expert bodies, organisations or individuals as it may deem necessary.

(3) The Commission shall furnish its recommendations to the Central Government within a period of six month from the date of receipt of the project report under sub section (1).

7. If the Central Government is satisfied that it would be advisable to establish a University as recommended by the Commission, it may, subject to such conditions as may be specified in such directions, direct the sponsoring body to establish a permanent endowment fund in the manner provided in section 8.

Sponsoring
body to
establish an
endowment
fund.

8. (1) Every University shall have a fund called the Permanent Endowment Fund which it shall invest and keep invested in securities issued or guaranteed by the Central Government.

Permanent
Endowment
Fund.

(2) The Permanent Endowment Fund shall consist of a sum of ten crores of rupees or a sum equivalent to the recurring expenses for three years for the fully operational University, whichever is more, in long term interest bearing securities of the Central Government or any such other securities as the Central Government may approve in this behalf.

(3) The Central Government shall have the power to direct any upward revision of the Permanent Endowment Fund from time to time.

9. Every University shall also have a fund called the General Fund which shall consist of—

General fund.

- (a) fees and other charges received by the University;
- (b) income from the Permanent Endowment Fund;
- (c) income from any other source; and
- (d) any contributions made by the sponsoring body.

10. (1) The Central Government having regard to—

- (a) the desirability of establishment of a University;
- (b) recommendations of the Commission;
- (c) the establishment of a permanent endowment fund under section 7.

Establishment
of Universi-
ties.

(d) recognition or authorization as may be required under any other law for the time being in force for conduct of the courses and award of degrees or diplomas, as the case may be,

may, by notification in the Official Gazette, establish a University under such name and having such jurisdiction and location of the campus as may be specified therein.

(2) Every notification under sub-section (1) shall be laid before both the Houses of Parliament.

11. (1) Every university established under sub-section (1) of section 10 shall be a body corporate by the name notified under that section having perpetual succession and a common seal and shall by the said name sue and be sued.

Incorporation
of Universi-
ties.

(2) A University established under sub-section (1) of section 10 shall have no power to affiliate any college or other institution with it and shall not have more than one campus.

(3) Every University shall, within three years of its establishment, obtain accreditation from a body nominated in this behalf by the Commission and shall renew such accreditation at an interval of every five years thereafter.

Universities to be self-financing.

12. A University shall not be entitled to receive grant-in-aid or other financial assistance from the Central Government, any State Government, the Commission or any other authority.

Universities open to all classes, castes and creeds.

13. Every University shall be open to persons of either sex and of whatever caste, creed, race or class, and it shall not be lawful for a University to adopt or impose on any person any test whatsoever of religious belief or profession in order to entitle him to be appointed as a teacher of the University or to hold any other office therein or to be admitted as a student in the University or to graduate thereat or to enjoy or exercise any privilege thereof:

Provided that nothing in this section shall be deemed to prevent the University from making special provisions for the employment or admission of women, physically handicapped or of persons belonging to the weaker sections of the society and, in particular, of the Scheduled Castes and the Scheduled Tribes.

Officers of the University.

14. Every University shall have the following officers, namely:—

- (a) the Chancellor;
- (b) the Vice-Chancellor;
- (c) the Registrar;
- (d) the Chief Finance and Accounts Officer;
- (e) such other officers as may be prescribed by the Statutes.

The Chancellor.

15. (1) The Chancellor shall be appointed for a term of three years by the sponsoring body with the previous approval of the Central Government in such manner as may be prescribed by the Statutes.

(2) The Chancellor shall, by virtue of his office, be the Head of the University.

(3) The Chancellor shall preside over the meetings of the Board of Governors and if present, preside at the convocation of the University held for conferring degrees or diplomas.

(4) The Chancellor shall have the following powers, namely:—

- (a) to call for any information or report;
- (b) to appoint the Vice-Chancellor;
- (c) such other powers as may be prescribed by the Statutes.

The Vice-Chancellor.

16. (1) The Vice-Chancellor shall be appointed by the Chancellor from a panel of five names to be prepared by the Board of Governors:

Provided that the first Vice-Chancellor shall be appointed by the Central Government from a panel of three names proposed by the Chancellor.

(2) The Vice-Chancellor shall be the principal executive and academic officer of the University and shall exercise general supervision and control over the affairs of the University and give effect of the decisions of all the authorities of the University.

(3) The Vice-Chancellor may, if he is of the opinion that immediate action is necessary on any matter, exercise any power conferred on any authority of the University by or under this Act and shall report to such authority the action taken by him on such matter:

Provided that if the authority concerned is of the opinion that such action ought not to have been taken, it may refer the matter to the Chancellor whose decision thereon shall be final:

Provided further that any person in the service of the University who is aggrieved by the action taken by the Vice-Chancellor under this sub-section shall have the right to appeal against such action to the Board of Management within three months from the date on which

decision on such action is communicated to him and thereupon the Board of Management may confirm, modify or reverse the action taken by the Vice-Chancellor.

(4) The Vice-Chancellor, if he is of the opinion that any decision of any authority of the University is beyond the powers of the authority conferred by the provisions of this Act, the rules, the Statutes or the Ordinances or that any decision taken is not in the interest of the University, may ask the authority concerned to review its decision within sixty days of such decision of the authority and if the authority refuses to review the decision either in whole or in part or no decision is taken by it within the said period of sixty days, the matter shall be referred to the Chancellor whose decision thereon shall be final.

(5) The Vice-Chancellor shall exercise such other powers and perform such other duties as may be prescribed by the Statutes or the Ordinances.

17. (1) The Registrar shall be appointed in such manner as may be prescribed by the first Statutes. The Registrar.

(2) The Registrar shall have the power to enter into agreements, sign documents and authenticate records on behalf of the University and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

18. The Chief finance and Accounts Officer shall be appointed in such manner and shall exercise such powers and perform such duties as may be prescribed by the first Statutes. The Chief Finance and Accounts Officer.

19. The manner of appointment and powers and duties of the other officers of the University shall be prescribed by the Statutes. Other officers.

20. The following shall be the authorities of a University, namely:—

(a) the Board of Governors;

(b) the Board of Management;

(c) the Academic Council; and

(d) such other authorities as may be created by the Statutes to be the authorities of the University. Authorities of the University.

21. (1) The Board of governors shall consist of the following, namely:—

(a) the Chancellor;

(b) the Vice-Chancellor,

(c) three persons to be nominated by the sponsoring body;

(d) one representative of the Central Government;

(e) one representative of the State Government in which the University is situated;

(f) one academician to be nominated by the Commission.

(2) The Chancellor shall be the Chairman of the Board of Governors. The Board of Governors.

(3) The Board of Governors shall be the supreme governing body of the University with powers—

(a) to review decisions of the other authorities of the University if they are not in conformity with the provisions of this Act, the rules, the Statutes or the Ordinances;

(b) to approve the budget and annual report of the University;

(c) to lay down broad policies to be pursued by the University;

(d) to take decisions about voluntary winding up of the University.

(4) The Board of Governors shall meet at least twice in a calendar year.

22. (1) The Board of Management shall consist of the following, namely:—

(a) the Vice-Chancellor; The Board of Management.

- (b) one representative to be nominated by the Commission;
- (c) two representatives to be nominated by the sponsoring body;
- (d) the senior-most professor of the University.

(2) The Vice-Chancellor shall be the Chairman of the Board of Management.

(3) The powers and functions of the Board of Management shall be such as may be prescribed by the Statutes.

The Academic Council.

23. (1) The Academic Council shall consist of the Vice-Chancellor and such other members as may be prescribed by the Statutes.

(2) The Vice-Chancellor shall be the Chairman of the Academic Council.

(3) The Academic Council shall be the principal academic body of the University and shall, subject to the provisions of this Act, the rules, the Statutes and the Ordinances, co-ordinate and exercise general supervision over the academic policies of the University.

The other authorities.

24. The constitution, powers and functions of the other authorities of the University shall be such as may be prescribed by the Statutes.

Power of the Commission to inspect the Universities.

25. (1) The Commission shall have powers to inspect the University at any time after giving prior notice of such inspection.

(2) The findings of the commission shall be communicated to the Central Government which may, if considered necessary, issue a show cause notice to the University as to why it should not be directed to rectify the deficiencies pointed out by the Commission.

(3) If the Central Government is not satisfied with the reply given by the University, it shall direct the University to rectify the deficiencies and the University shall be bound to comply with such directions.

The first Statutes.

26. (1) Subject to the provisions of this act and the rules, the first Statutes of a University may provide for all or any of the following matters, namely:—

(a) the procedure regarding transaction of business of the authorities constituted by or under this Act and the composition of bodies not specified in this Act;

(b) the terms and conditions of appointment of Vice-Chancellor and his powers and functions;

(c) the terms and conditions of appointment of the Registrar and the Chief Finance and Accounts Officer and their powers and functions;

(d) the method of appointment and the conditions of service of the other officers and the faculty members;

(e) the terms and conditions of service of employees of the University;

(f) the procedure for resolving of disputes between the University and its officers, faculty members, employees and students;

(g) the procedure for conferment of honorary degrees;

(h) provisions regarding grant of freeships and scholarships;

(i) provisions regarding admission policy including regulation of reservation of seats;

(j) provisions regarding fees to be levied from students;

(k) provisions regarding number of seats in different courses.

(2) The first Statutes of a University shall be prepared by its Board of Management and shall be submitted to the Commission through its Board of Governors for approval of the Commission.

(3) The Commission shall consider the first Statutes submitted by the University within two months from the date of its receipt and shall communicate its approval to the University with such modifications as it may consider necessary:

Provided that the time limit of two months shall not apply in relation to Statutes in respect of matters specified in clauses (j) and (k) of sub-section (1).

(4) The University shall communicate its acceptance of the first Statutes as approved by it and if it desires that the modifications suggested by the Commission under sub-section (3) shall not be given effect to, the reasons thereof shall be communicated within one month to the Commission and the Commission may either accept the suggestions of the University or reject the same.

(5) The Commission shall, by notification in the Official Gazette, publish the first Statutes of the University as finally approved by it and the first Statutes shall thereupon come into force.

27. (1) Subject to the provisions of this Act and the rules, the Statutes of a University may provide for all or any of the following, namely:—

The
subsequent
Statutes.

- (a) creation of new authorities of the University;
- (b) accounting policy and financial procedure;
- (c) election of teachers for their representation in the authorities;
- (d) creation of new departments and abolition or restructuring of existing departments;
- (e) institution of fellowships, scholarships, studentships, freeships, medals and prizes;
- (f) procedure for creation and abolition of posts;
- (g) revision of fees;
- (h) alteration in the number of seats in different courses;
- (i) other matters prescribed by rules to be prescribed by Statutes.

(2) The Statutes of a University other than the first Statutes shall be prepared by its Board of Management with the approval of the Board of Governors.

(3) The Statutes made under sub-section (2) shall be furnished to the Commission and the Commission shall within two months from the date of its receipt shall, if considered necessary, suggest modifications therein:

Provided that the time limit of two months shall not apply in relation to the Statutes in respect of matters specified in clauses (g) and (h) of sub-section (1).

(4) The Board of Governors shall consider the modifications suggested by the Commission and return the Statutes alongwith its comments on the suggestions of the Commission to the Commission.

(5) The Commission shall consider the suggestions of the Board of Governors and cause publication of the Statutes as finally approved by it in the Official Gazette and on such publication the Statutes shall come into force.

28. (1) Subject to the provisions of this Act, the rules and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

The
Ordinances.

- (a) admission of students to the University and their enrolment as such;
- (b) the courses of study to be laid down for all degrees, diplomas and certificates of the University;
- (c) the award of degrees, diplomas, certificates and other academic distinctions, qualifications for the same and means to be taken relating to the granting and obtaining of the same;

(d) the conditions of award of fellowships, scholarships, studentships, medals and prizes;

(e) the conduct of examinations including the terms of office and manner of appointment and duties of examining bodies, examiners and moderators;

(f) the fees to be charged for admission to the examinations, degrees and diplomas of the University;

(g) the conditions of residence of the students of the University;

(h) arrangements concerning disciplinary action against the students;

(i) the creation, composition and functions of any other body which is considered necessary for improving the academic life of the University;

(j) the manner of co-operation with other Universities or institutions of higher learning;

(k) all other matters which by this Act, the rules or the Statutes may be provided for by the Ordinances.

(2) The first Ordinances of a University shall be made by the Vice-Chancellor who shall submit the same to the Commission.

(3) The Commission shall consider the first Ordinances submitted by the Vice-Chancellor under sub-section (2) within two months from the date of receipt of the same and shall either approve the first Ordinances or suggest modifications, therein.

(4) The Commission shall, by notification in the Official Gazette, publish the first Ordinances and if it has suggested modifications, return the first Ordinances to the University for its reconsideration.

(5) The Vice-Chancellor shall furnish his comments on the modifications suggested by the Commission and return the first Ordinances to the Commission and on receipt of the same, the Commission shall either accept the comments of the Vice-Chancellor or reject the same and on the basis of its decision finally notify the first Ordinances as approved by it in the Official Gazette and on such publication the first Ordinances shall come into force.

The subsequent Ordinances.

29. (1) All Ordinances of a University other than its first Ordinances shall be made by its Academic Council with the approval of the Board of Management.

(2) The Commission shall cause publication of all Ordinances made under sub-section (1) in the Official Gazette and on such publication the Ordinances shall come into force.

The annual report.

30. (1) The annual report of a University shall be prepared by its Board of Management which shall include, among other matters, the steps taken by the University towards the fulfilment of its objects and shall be approved by the Board of Governors.

(2) A copy of the annual report as prepared under sub-section (1) shall be submitted to the Commission.

The annual accounts.

31. (1) The annual accounts and balance sheet of a University shall be prepared under the directions of its Board of Management and shall, once at least every year and at intervals of not more than fifteen months, be audited by an auditor duly appointed by the University.

(2) A copy of the annual accounts together with the audit report thereon shall be submitted to the Board of Governors.

(3) A copy of the annual accounts together with the audit report and the observations, if any, of the Board of Governors shall be submitted to the Central Government.

(4) The directions of the Central Government on matters arising out of the accounts and audit reports of the University shall be binding on it.

Proceedings of University authorities not to invalidate by vacancy.

32. No act or proceeding of any authority of a University shall be invalid merely by reason of the existence of a vacancy or vacancies among its members.

- 45 of 1860. 33. (1) All officers and other employees of a University while exercising any power or performing any duty under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. Officers and employees to be public servants.
- (2) No suit or other legal proceedings shall lie against any officer or other employee of a university for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act, the rules, the Statutes or the Ordinances.
- 1 of 1872. 34. A copy of any receipt, application, notice, order, proceedings, resolution of any authority or committee of a University, or other documents in possession of the University, or any entry in any register duly maintained by the University, if certified by the Registrar, shall be received as *prima facie* evidence of such receipt, application, notice, order, proceeding, resolution or documents or the existence of entry in the register and shall be admitted as evidence of the matters and transactions therein where the original thereof would, if produced, have been admissible in evidence, notwithstanding anything contained in the Indian Evidence Act, 1872 or in any other law for the time being in force. Mode of proof of University records.
35. (1) If the sponsoring body proposes its dissolution in terms of the provisions of the law governing its constitution or incorporation, it shall give a notice of at least six months to the Central Government. Management of the University on dissolution of the sponsoring body.
- (2) Upon receipt of such notice, the Central Government shall, in consultation with the Commission, make such arrangements for administration of the University from the date of dissolution of the sponsoring body and until the last batch of students in regular courses of the University complete their courses as may be prescribed by rules.
- (3) The expenditure for administration of the University during the taken over period of its management shall be met out of the Permanent Endowment Fund.
36. (1) If the Central Government notices violation of any of the directions issued by it to a University under this Act or on receipt of a complaint of mismanagement by a University, it shall issue a notice to the University calling upon the same to show cause within such time not less than forty-five days as to why it should not be ordered to be wound up. Winding up of the University in certain circumstances
- (2) If the Central Government considers it necessary for the proper investigation to suspend the Board of Management, it shall, by notification in the Official Gazette, order suspension of the Board of Management and make such arrangements for the administration of the affairs of the University as may be necessary till the investigation is completed.
- (3) If, upon receipt of the reply of the University to the notice under sub-section (1), the Central Government is satisfied that a *prima facie* case of mismanagement or violation of the provisions of this Act or any directions issued thereunder is made out, it shall order such inquiry as it may deem necessary.
- (4) For the purposes of any inquiry under sub-section (3), the Central Government shall, by notification in the Official Gazette, appoint an officer or authority as the inquiring authority to inquire into and report upon any of the allegations.
- 5 of 1908. (5) Every inquiring authority appointed under sub-section (4) shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—
- (a) summoning and enforcing the attendance of any witness and examining him on oath;
 - (b) requiring the discovery and production of any document or other material which is producible as evidence;
 - (c) requisitioning of any public record from any court or office;
 - (d) any other matter which may be prescribed by rules.
- (6) Every inquiring authority making an inquiry under this Act shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. 2 of 1974.

(7) If, upon receipt of the inquiry report, the Central Government is satisfied that the University has been mismanaged or has violated any of the directions of the Central Government or provisions of this Act, it shall, by notification in the Official Gazette, order winding up of the University.

(8) While issuing a notification of winding up under sub-section (7), the Central Government shall make further arrangements for administration of the affairs of the University till its current courses of study are over.

(9) During the period of management of the University under sub-section (8), the Central Government shall utilise the funds available under the Permanent Endowment Fund and forfeit to itself the balance, if any, in such fund.

(10) Every notification issued under sub-section (7) shall be laid before both the Houses of Parliament.

Powers of the
Central
Government.

37. The Central Government shall have the following powers, namely:—

(a) to approve the appointment of a Chancellor;

(b) to issue directions to do anything required to be done by the University by or under the provisions of this Act, the rules, the Statutes or the Ordinances made thereunder or to rectify any violation thereof;

(c) to adjudicate disputes under this Act between the University, the Commission or any other expert body and to issue directions to comply with its decisions on such disputes;

(d) to order winding up of the University in accordance with section 36;

(e) to order framing of Statutes under section 27 on particular subjects;

(f) to generally issue such orders as may be required to be followed by the University under this Act or any other law for the time being in force.

Power to
make rules.

38. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which an application containing proposal for establishment of a University shall be made by a sponsoring body and the fee payable thereto under sub-section (1) of section 3;

(b) the details which a project report shall contain under clause (m) of sub-section (2) of section 4;

(c) matters to be provided in the Statutes under clause (i) of sub-section (1) of section 27;

(d) arrangements for administration of a University on a dissolution of its sponsoring body under sub-section (2) of section 35;

(e) matters to be specified under clause (d) of sub-section (5) of section 36.

Rules, Statutes
and Ordina-
nces to be
laid before
Parliament.

39. Every rule, Statute or Ordinance made under this Act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, Statute or Ordinance or both Houses agree that the rule, Statute or Ordinance should not be made, the rule, Statute or Ordinance shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule, Statute or Ordinance.

40. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Power to
remove
difficulties.

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

STATEMENT OF OBJECTS AND REASONS

Of late, considerable interest has been generated in establishment of self-financing universities not requiring any financial support from the Government. Such universities can play a subsidiary but supportive role to the endeavours of the State run universities in the tertiary education sector. In emerging areas of science and technology, especially, these universities may provide useful instructional inputs by making available additional finances.

2. Establishment of universities requires either a specific or enabling legislation. As the establishment of such universities would require a broadly uniform set of guidelines for ensuring academic standards, prevention of commercialization and mismanagement, etc., enactment of an enabling legislation of general applicability is considered expedient. It has, therefore, been decided to provide for establishment of self-financing private universities in the country and to regulate their functioning by enacting an enabling law on the subject.

3. The Bill seeks to achieve the above objects.

4. The notes on clauses appended to the Bill explain its various provisions.

MADHAVRAO SCINDIA.

Notes on clauses

Clause 2—This clause seeks to define certain words and expressions used in the Bill.

Clause 3—This clause provides for a preliminary application for establishment of self-financing universities and action to be taken thereon.

Clause 4—This clause lays down the format and procedure for a comprehensive application in the form of a project report.

Clause 5—This clause provides for transmission of the project report through the State Government.

Clause 6—This clause provides for examination of the project report by the Universities Grants Commission (UGC) and its recommendations thereon.

Clause 7—This clause gives power to the Central Government to direct the sponsoring body for creation of a Permanent Endowment Fund.

Clause 8—This clause provides for the manner of creating the Permanent Endowment Fund and prescribes the size of the corpus of such fund.

Clause 9—This clause provides for creation of a General Fund for the University.

Clause 10—This clause provides for establishment of the Universities through notification and subject to certain conditions specified therein.

Clause 11—This clause gives legal personality to the Universities established and lays down that such Universities shall be single campus Universities with mandatory academic accreditation.

Clause 12—This clause prohibits receipt of grant-in-aid or any other financial assistance from Government by the Universities.

Clause 13—This clause provides for the Universities to be open to all in the matter of admission and employment.

Clause 14—This clause defines the officers of the University.

Clause 15—This clause provides for appointment of the Chancellor and specifies his certain powers.

Clause 16—This clause provides for the appointment and powers of the Vice-Chancellor.

Clause 17—This clause provides for the appointment and powers of the Registrar.

Clause 18—This clause provides for the appointment of Chief Finance and Accounts Officer.

Clause 19—This clause enables the University to appoint other officers and define their powers under the Statutes.

Clause 20—This clause defines the authorities of the Universities.

Clause 21—This clause lays down the composition of the Board of Governor and its powers and responsibilities.

Clause 22—This clause lays down the composition of the Board of Management and its powers and responsibilities.

Clause 23—This clause provides for the Academic Council and defines its powers and responsibilities.

Clause 24—This clause enables the Universities to create other authorities and to define their powers and responsibilities under the Statutes.

Clause 25—This clause provides for the power of the University Grants Commission to inspect and the power of the Central Government to require the Universities to rectify deficiencies noticed in the inspection.

Clause 26—This clause describes subjects to be covered by the first Statutes of the University and how such Statutes may be made and approved.

Clause 27—This clause describes the subjects to be covered by subsequent Statutes and how such Statutes may be made and approved.

Clause 28—This clause describes the subjects to be covered by the first Ordinances and how such Ordinances may be made and approved.

Clause 29—This clause provides for subsequent Ordinances and how they may be made and approved.

Clause 30—This clause provides for the annual report of the University.

Clause 31—This clause provides for the preparation and audit of the annual accounts and balance sheet of the University.

Clause 32—This clause provides for not invalidating any act or proceedings of any authority of a University by reason of any vacancy.

Clause 33—This clause provides for all officers and other employees of the Universities to be public servants and immunity from suit, etc., to them in respect of their actions in good faith in their official capacity.

Clause 34—This clause provides for certified copies of documents of the Universities as admissible in evidence in courts of law.

Clause 35—This clause provides for voluntary winding up of the University.

Clause 36—This clause empowers the Central Government to order winding up of the University in case of mismanagement, etc.

Clause 37—This clause defines the powers of the Central Government in relation to the Universities.

Clause 38—This clause confers powers upon the Central Government to make rules for the purposes of carrying out the provisions of the Bill, when enacted.

Clause 39—This clause provides for laying of rules, Statutes and Ordinances made under the enactment on the table of both the Houses of Parliament.

Clause 40—This clause empowers the Central Government to remove difficulties in giving effect to the provisions of the Bill and for laying the orders issued in this behalf before each House of Parliament. This power is exercisable only for three years from the date of commencement of the Act.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 26 of the Bill enumerates the matters in respect of which the Board of Management of a University may make the first Statutes. Sub-clauses (3) to (5) of the said clause lay down the procedure for making of the first Statutes. The first Statutes shall be finally approved and published in the Official Gazette by the University Grants Commission (UGC).

2. Sub-clause (1) of clause 27 of the Bill specifies the matters in respect of which the subsequent Statutes of a University may be prepared by the Board of Management with the approval of the Board of Governors. Sub-clauses (2) to (5) of the said clause lay down the procedure for making of such subsequent Statutes.

3. Sub-clause (1) of clause 28 enumerates the matters in respect of which the first Ordinances of a University shall be made by the Vice-Chancellor with the approval of the UGC.

4. Clause 29 of the Bill provides that the Academic Council of a University, with the approval of the Board of Management, may make the subsequent Ordinances and the same shall be published by the UGC.

5. Clause 38 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill.

6. Clause 39 of the Bill provides that every rule, Statute or Ordinance made under the enactment shall be laid before both the Houses of Parliament. The matters in respect of which the rules, Statutes or Ordinances may be made are generally matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

III

Bill No. LVIII of 1995

A BILL *further to amend the Apprentices Act, 1961.*

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Apprentices (Amendment) Act, 1995.

Amendment of section 2.

2. In the Apprentices Act, 1961 (hereinafter referred to as the principal Act), in section 2.—

52 of 1961.

(i) in clause (g), the following shall be added at the end, namely:—

“and where an establishment consists of different departments or have branches, whether situated in the same place or at different places, all such departments or branches shall be treated as part of that establishment”;

(ii) after clause (g), the following clause shall be inserted, namely:—

“(r) “worker” means any person who is employed for wages in any kind of work and who gets his wages directly from the employer but shall not include an apprentice referred to in clause (aa).”.

Amendment of section 7.

3. In section 7 of the principal Act, after sub-section (3) the following sub-section shall be inserted, namely:—

“(4) Notwithstanding anything contained in any other provision of this Act, where a contract of apprenticeship has been terminated by the Apprenticeship Adviser before the expiry of the period of apprenticeship training and a new contract of apprenticeship is being entered into with a new employer, the Apprenticeship Adviser may, if he is satisfied that the contract of apprenticeship with the previous employer could not be completed because of any lapse on the part of the previous employer, permit the

period of apprenticeship training already undergone by the apprentice within his previous employer to be included in the period of apprenticeship training to be undertaken with the new employer.”.

4. In section 8 of the principal Act, in sub-section (3) after the first proviso, the following proviso shall be added, namely:—

Amendment
of section 8.

“Provided further that the Apprenticeship Adviser may, on a representation made to him by an employer and keeping in view the more realistic employment potential, training facilities and other relevant factors, permit him to engage such number of apprentices for a designated trade as is lesser than the number arrived at by the ratio for that trade, not being lesser than twenty per cent of the number so arrived at, subject to the condition that the employer shall engage apprentices in other trades in excess in number equivalent to such shortfall.”.

5. In section 9 of the principal Act, in sub-section (8),—

Amendment of
section 9.

(i) in clause (a), for the words “practical training, including basic training”, the words “basic training” shall be substituted;

(ii) in sub-clause (i), for the words “five hundred”, the words “two hundred and fifty” shall be substituted;

(iii) in sub-clause (ii), for the words “five hundred”, the words “two hundred and fifty” shall be substituted;

6. In section 11 of the principal Act,—

Amendment of
section 11.

(i) in clause (b), the word “and”, occurring at the end, shall be omitted;

(ii) after clause (b), the following clause shall be inserted, namely:—

“(bb) to provide adequate instructional staff, possessing such qualifications as may be prescribed, for imparting practical and theoretical training and facilities for trade test of apprentices; and”.

7. In section 31 of the principal Act, for the words “which may extend to five hundred rupees”, the words “which shall not be less than one thousand rupees but may extend to three thousand rupees” shall be substituted.

Amendment of
section 31.

8. In section 33 of the principal Act, after the words “Apprenticeship Adviser”, the words “or the officer of the rank of Deputy Apprenticeship Adviser and above” shall be inserted.

Amendment
of section 33.

STATEMENT OF OBJECTS AND REASONS

The Apprentices Act, 1961 provides for regulation and control of training of apprentices. In the functioning of the said Act, certain problems have been faced.

2. The amendments proposed in the Bill are mainly with a view to provide for the following, namely:—

(i) in order to seek financial benefits from the Government, certain employers treat various departments of their establishments as separate establishments. It is proposed to amend clause (g) of section 2 to amplify the definition of “establishment” in this regard;

(ii) the expression “worker” has not been defined in the Act which has caused confusion in matter of determination of the strength of workers. A new clause (r) in section 2 is being provided for the purpose;

(iii) in case, where the contract of the apprenticeship has been terminated before the expiry of the period of apprenticeship and a contract of apprenticeship has been entered into with a new employer and the contract of the apprenticeship could not be completed with the previous employer because of lapse on the part of such employer, it is proposed to provide that the period of apprenticeship training undergone with the previous employer shall be deemed to be included in the period of apprenticeship training to be undertaken with the new employer. A new sub-section (4) is being inserted in section 7 for the purpose.

(iv) sub-section (3) of section 8 is being amended with a view to provide some measure of flexibility in the engagement of apprentices keeping in view the potentiality and availability of training facilities with individual employers;

(v) since industry is the ultimate beneficiary of the training through apprentices, it is proposed to amend sub-section (8) of section 9 to provide that industry should increasingly bear training cost of apprentices;

(vi) in order to improve the quality of apprenticeship training section 11 is proposed to be amended with a view to provide that the qualifications of the instructional staff shall be as may be prescribed;

(vii) section 31 is proposed to be amended with a view to enhance the amount of penalty which may be imposed;

(viii) section 33 is proposed to be amended to provide that an officer of the rank of the Deputy Apprenticeship Adviser or above shall be competent to make a complaint before the Court about an offence.

3. The Bill seeks to achieve the above objects.

P. A. SANGMA.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (ii) of clause 6 of the Bill empowers the Central Government to prescribe the qualifications of instructional staff for imparting practical and theoretical training to the apprentices during their apprenticeship training period.

2. The matter in respect of which the rules may be made relates to qualifications of the instructional staff. The delegation of legislative power is, therefore, of a normal character.

V. S. RAMA DEVI,
Secretary-General.

